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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,317	02/08/2002	Steven Brian Johnson	205,510	3702
7590	01/29/2004		EXAMINER	
Abelman Frayne & Schwab 150 East 42nd Street New York, NY 10017			COBURN, CORBETT B	
			ART UNIT	PAPER NUMBER
			3714	
			DATE MAILED: 01/29/2004	
			6	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/049,317	JOHNSON, STEVEN BRIAN
<b>Examiner</b>	<b>Art Unit</b>	
Corbett B. Coburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-28 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 08 February 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 35 . 6)  Other: \_\_\_\_\_ .

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Jackpot System For Gaming Machine In Which The Probability of Winning Is Dependent On the Amount Bet During A Time Period.

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### *Claim Objections*

3. Claim 5 objected to because of the following informalities: "That draw" in line 3 lacks antecedent basis. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 17-19 & 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Bueschel (*Lemons, Cherries and Bell-Fruit-Gum*, Royal Bell Books, 1995).

**Claims 1, 17 & 24:** Bueschel teaches a Puck gaming machine that was introduced in 1898. The probability of winning a prize is dependent on at least some of the amount wagered on the gaming machine. As the illustration clearly shows, there are six coin slots available for the player to make a bet. Each slot

corresponds to a color on the wheel. A player may place a bet in any or all of the slots. Thus the more money bet, the greater the odds that the player will win because more colors will generate a win. A control means is inherent in the gaming machine and each spin of the wheel is one of a series of draws. The prize is awarded at random (i.e., non-deterministically). The bets are made for each spin of the wheel. There is an elapsed period of time between spins.

**Claims 2, 18, 25:** The probability is related to the total amount wagered between spins.

**Claim 3:** The probability is related to the maximum amount wagered.

**Claims 4, 19, 26:** The time between spins is variable (i.e., sliding or rolling).

**Claim 5:** Each spin is a prize draw. Payouts are in accordance with the pay table. Thus the probability of the gaming machine winning is inherently calculated prior to the draw.

**Claim 6:** The elapsed period is the period between spins. While the time in minutes and seconds may not be predetermined, the period is – the time since the last spin. The amount wagered is recorded for that time period and the probability of the gaming machine winning is inherently calculated prior to the draw from amounts recorded during the period.

#### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 11-15, 22, 23 & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bueschel as applied to Claim 1, 5, 17 or 24.

**Claim 9:** The Puck machine teaches the invention substantially as claimed, but does not teach awarding the winning machine a further game to determine the prize won. Bonus games are extremely well known to the art. They are very well known to attract players. On page 248, Bueschel teaches the Bally Circus. The Bally Circus uses a further game to determine the prize won. It would have been obvious to one of the ordinary skill in the art at the time of the invention to have modified the Puck Machine to award the winning machine a further game to determine the prize won as taught by the Bally Circus in order to attract players.

**Claim 11:** The Bally Circus awards a jackpot and suspends the award until the determination of the further game.

**Claim 12:** The Puck game machine teaches the invention substantially as claimed, but does not teach a jackpot pool. Jackpot pools are extremely well known in the art. Bueschel (on page 43) teaches that the Mills Duplex machine was introduced in 1899. The Mills Duplex operates under the same principle as the Puck, but adds jackpot pools. Jackpot pools are well known to attract players. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Puck Machine to include jackpot pools (as they did for the Mills Duplex) in order to attract players.

**Claim 13:** The Mills Duplex jackpot pool comprises an initial amount (it could be zero) and a proportion of the amount wagered on the gaming machine since the

jackpot pool was reset. Furthermore, Bueschel teaches auto-filling jackpots on page 90.

**Claims 14, 23, 28:** The Puck advertisement shows a pay table displaying a graphical representation of the probability of the gaming machine winning a prize. It appears that this information is displayed on the coin heads, but the quality of the illustration precludes a certain determination. Display of pay tables (i.e., graphical representation of the probability of a machine winning) is extremely well known in the art. It helps the user determine what bet to place. The Little Monte Carlo, offered by Mills in 1899, clearly shows a paytable. It would have been obvious to one of ordinary skill in the art at the time of the invention to have displayed a graphical representation of the probability of the gaming machine winning a prize on a Puck Machine as taught by the Little Monte Carlo in order to help the user determine what bet to place.

**Claim 15:** The Puck and Little Monte Carlo Machines teach the invention substantially as claimed. The Little Monte Carlo displays probabilities in a relative format. Neither Puck nor Little Monte Carlo teaches a system with a plurality of gaming machines. This is very old and well known to the art. For instance, on 287, Bueschel teaches multiple linked gaming machines. This allows the gaming machines to share a single large jackpot. Large jackpots attract players. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Puck and Little Monte Carlo machines to include a plurality of gaming machines (as taught on page 287 of Bueschel) in

order to allow the machines to share a single large jackpot in order to attract players.

**Claim 16, 22:** The Puck is a mechanical game machine – it is not electronic. Electronic gaming machines are tremendously well known in the art. Some of the earliest gaming machines were electric – Bueschel discloses an electronic color wheel operating on the same principle as the Puck Machines that was introduced in 1893 (Pratt's Electric Wizard). Thus electronic gaming machines had been used for over a century before Applicant's invention. The early electronic machines had problems – electricity was not readily available to all locations in 1893 and electric motors were in their infancy. But these problems have long since been overcome. Mechanical slot machines went out of vogue in the mid-1950's – approximately 50 years before Applicant's invention. Electronic slot machines are now the industry standard and have been for decades. Electronic slot machines are easier to maintain than mechanical slot machines. They are also less prone to fraud. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Puck Machine to be an electronic game machine in view of Bueschel in order to make the machine easier to maintain.

8. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bueschel as applied to claim 6 above, and further in view of Luciano et al. (US Patent Number 6,168,521).

**Claim 7:** Bueschel teaches the invention substantially as claimed, but does not teach drawings being conducted at periodic intervals of time that are no greater

than a predetermined time period. The Puck machine is essentially a lottery machine and each color bet upon is essentially a lottery ticket. Luciano teaches a gaming system in which drawings are conducted at periodic intervals of time that are no greater than a predetermined time period. (Col 3, 1-5) This allows players to use electronic gaming machines in jurisdictions in which slot machines are not normally permitted. (Col 1, 4-19) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Puck machine to conduct drawings at periodic intervals of time that are no greater than a predetermined time period as suggested by Luciano in order to allow the game machines to be played in jurisdictions in which slot machines are not normally permitted.

**Claim 8:** The winning probability for each gaming machine depends upon the amount wagered on the machine during the period from the last draw – players bets do not carry over from game to game. The estimated amount is calculated on a pro rata basis from the recorded amount of wagers during the predetermined period – players only get credit for the bets they place on the machine.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bueschel as applied to claim 9 above, and further in view of Acres (US Patent Number 6,231,445).

**Claim 10:** Bueschel teaches the invention substantially as claimed, but does not teach a time limit on the bonus game. Acres teaches a time limit for bonus games. (Fig 4) This increases the excitement of the game. It would have been obvious to one of ordinary skill in the art to have modified the bonus game taught by

Bueschel to impose a time limit on the bonus game as taught by Acres in order to add excitement to the game.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bueschel as applied to claim 17 above, and further in view of Barrie et al. (US Patent Number 4,837,728)

**Claim 21:** Bueschel teaches the invention substantially as claimed but does not teach a jackpot controller and a progressive jackpot. Jackpot controllers and progressive jackpots are extremely well known to the art. (Class 463/27 is devoted entirely to progressive jackpots and jackpot controllers.) Barrie provides one example. (Abstract & Fig 3) Progressive jackpots are well known to attract players. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Bueschel to include a jackpot controller and a progressive jackpot as taught by Barrie in order to attract players.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bueschel as applied to claim 26 above, and further in view of Castellano et al. (US Patent Number 5,477,952).

**Claim 27:** The Puck teaches the invention substantially as claimed, but does not specifically teach a means for recording during the predetermined period amounts wagered on the gaming machine. While the Puck may be said to inherently record the number of coins bet during the time period because it has to know what colors are bet on, the Puck does not actually keep a record of the number of coins bet. Coin-in meters that do keep such records are, however, extremely well known to the art. In fact, they are commonplace. In order to operate, each and

every slot machine is required by law to have such a meter. Castellano teaches a coin-in meter. (Fig 4A) Coin-in meters allow casinos to keep track of how much money a slot machine takes in. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Puck to include a coin-in meter (to record during the predetermined period amounts wagered on the gaming machine) as suggested by Castellano in order to allow the casino to keep track of the money bet in a slot machine in order to comply with applicable law.

***Breadth of Claims***

12. In an effort to aid in the prosecution of the instant application, the examiner notes that, in Examiner's opinion, the instant claims are extremely broad. For example, many of the claims could either be anticipated or rendered obvious by the class/subclass definitions for class 463. Others are drawn to tremendously well-known subject matter. It is, for instance, very well known that the more tickets one buys for a lottery, the better one's chances of getting a prize. This idea has been implemented in a number of ways – multiple paylines on slot machines, multiple bingo cards, etc. The Examiner has chosen one machine that embodies this principle to serve as the basis for the rejection. Numerous other prior art references are available to reject claims of the breadth presented herein. The Examiner urges Applicant to present claims that clearly and distinctly set forth that which the Applicant considers to be the invention. Based on the Applicant's disclosure, Applicant should fully consider the Acres and Luciano references when preparing a response to this Office Action.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. *Slot Machines, A Pictorial Review*, gives further information on the operation of the Bally Circus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
cbc

  
JESSICA HARRISON  
PRIMARY EXAMINER